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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.       | CONFIRMATION NO.       |
|---|-------------|----------------------|---------------------------|------------------------|
| 10/724,406  | 11/26/2003  | Ronald A. Katz       | 6046-101D11               | 1054                   |
| 7590<br>Telebuyer, LLC<br>Suite 315<br>9220 Sunset Boulevard<br>Los Angeles, CA 90069 |             |                      | EXAMINER<br>WOO, STELLA L |                        |
|   |             |                      | ART UNIT<br>2614          | PAPER NUMBER           |
|   |             |                      | MAIL DATE<br>03/29/2010   | DELIVERY MODE<br>PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/724,406

**Applicant(s)**

KATZ, RONALD A.

**Examiner**

Stella L. Woo

**Art Unit**

2614

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 February 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 17-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date 3/11/2010

**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 12, 2010 has been entered.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 17-27, 29-42, 44-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shavit et al. (US 4,799,156, hereinafter "Shavit") in view of Lockwood (US 5,576,951) for the same reasons applied in the last Office action and repeated below.

Regarding claims 17, 22, 24, 26-27, 29, Shavit discloses an electronic commercial transaction system (interactive market management system) for selectively enabling communication between members of plural groups (buyers 82, suppliers 84, distributors 83, etc.), comprising:

an interface (communications interface 79 permits on-line computer access by remote buyers 82 with market participants, such as sellers 83, 84, 86, 88, 94, 96, etc.; col. 5, line 39.- col. 6, line 51);

an active buyer terminal (personal computers 62, 64 allow remote buyers to designate the particular goods or service desired via a request for quotation (RFQ); col. 25, lines 28-33; col. 5, lines 43-47; col. 6, lines 39-51);

memory storage (system 50 maintains user profiles for every user, col. 9, lines 52-68, and stores and logs every operation for each user ID, col. 11, lines 22-29));

whereby the control system subsequently electronically outputs by electronic mail to an indicated email address for electronic email communication relating to the interested buyer, an indication regarding said area of interest (system 50 provides email messages to each user, including bids in response to requests for particular goods or services input by the user, promotions, and other information of particular interest to buyers; col. 11, lines 52 – col. 12, line 26; col. 13, lines 25-27; col. 18, lines 44-49; col. 20, lines 2-39) as communicated via the public telephone system (the communication links may be any of a wide variety of network services, including public telephone network; col. 5, lines 51-55).

Shavit differs from claims 17, 22, 24, 26-27, 29 in that it does not teach selectively determining a vendor and providing video data for display by an active buyer terminal in accordance with types of merchandise and/or services relating to areas of interest. However, Lockwood teaches the desirability of having a central processor 222

select an appropriate vendor-supplied data source associated with the customer's request, col. 18, lines 51-54; col. 19, lines 52-53; col. 20, lines 36-39, for output to the customer as a high-resolution audio-visual presentation; col. 18, lines 9-56; col. 19, lines 13-24, 52-57) such that it would have been obvious to an artisan of ordinary skill to incorporate such vendor and video selection, as taught by Lockwood, within the system of Shavit in order to provide buyers with a more efficient means of selecting goods and services from a plurality of vendors by providing customized audio/video presentations from select vendors based on the buyer's area of interest. In this way, the buyer need not manually select each distributor from which information is desired and can receive information from a plurality of vendors rather than be restricted to vendors already known to the buyer.

Regarding claims 18-19, 21, the examiner takes Official Notice that merchandise are known to be identified by a product code such that it would have been obvious to an artisan of ordinary skill to incorporate such use of a numerical product code to identify the particular merchandise within the combination of Shavit and Lockwood.

Regarding claims 20 and 30, Shavit allow for direct communication over a switched line between a buyer and vendor via telephone conversation (col. 7, line 58 - col. 8, line 4) or online communication (col. 14, line 63 – col. 15, line 4).

Regarding claim 23, Shavit provides for receiving a user-ID and password (col. 18, lines 27-31). The examiner takes Official Notice that it is well known in the art to use a check digit to confirm correct entry of a password such that it would have been

obvious to an artisan of ordinary skill to incorporate such use of a check digit within the combination of Shavit and Lockwood.

Regarding claim 25, Shavit provides for processing invoices (col. 16, lines 37-49).

Regarding claim 31, Shavit provides for a printer (col. 9, lines 39-41).

The steps recited in method claims 32-42, 44-46 are carried out by the system of Shavit in view of Lockwood as described above with regard to claims 17-27, 29-31.

4. Claims 28 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shavit and Lockwood, as applied to claims 17 and 32 above, and further in view of Kaye et al. (US 5,727,164, hereinafter "Kaye") for the same reasons applied in the last Office action and repeated below.

The combination of Shavit and Lockwood differs from claims 28 and 43 in that it does not specify the buyer data as including a maximum amount that the buyer is willing to pay. However, Kaye teaches the desirability of allowing a buyer to specify a maximum purchase price as part of the desired product information (col. 4, lines 11-20; col. 5, line 53 - col. 6, line 2) in order to locate a vendor willing to sell the desired product at a minimum cost. Since the combination of Shavit and Lockwood is similarly directed to providing buyers with access to multiple vendors, it would have been obvious to an artisan of ordinary skill to allow a buyer to include a desired purchase price as part of the buyer request, as taught by Kaye, within the combination of Shavit

and Lockwood in order to locate a vendor willing to sell the desired product at a desired purchase price.

***Response to Arguments***

5. Applicant's arguments filed February 12, 2010 have been fully considered but they are not persuasive.

6. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Applicant argues that "[t]he desired vendor is already known to Shavit's buyer and indicated by the buyer." This is not a correct statement. In Shavit, a buyer identifies vendors from which quotations are requested. The desired vendor is determined by the buyer after received quotations are considered. Therefore, the other party to a transaction is not already selected by the buyer, as asserted by Applicant, since the buyer must consider the received quotations from the various vendors before deciding on a desired vendor.

Both Shavit and Lockwood address obtaining quotations from different vendors. In Shavit, a buyer must identify the vendors from which quotations are requested.

Lockwood saves a buyer time by automatically obtaining quotations from several vendors without requiring a buyer to specify particular vendors (col. 2, lines 8-30). In this way, the buyer need not manually select each distributor from which information is desired and can easily receive information from a plurality of vendors rather than be restricted to vendors already known to the buyer.

1. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stella L. Woo whose telephone number is (571) 272-7512. The examiner can normally be reached on Monday-Friday, 8:00 a.m. to 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on (571) 272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Application/Control Number: 10/724,406  
Art Unit: 2614

Page 8

/Stella L. Woo/  
Primary Examiner, Art Unit 2614